

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
SHERMAN DIVISION**

WAPP TECH LIMITED PARTNERSHIP
and WAPP TECH CORP.,

Plaintiff,

v.

SEATTLE SPINCO, INC., ET AL.,

Defendants.

Civil Action No. 4:18-cv-00469-ALM

JURY TRIAL DEMANDED

WAPP TECH LIMITED PARTNERSHIP
and WAPP TECH CORP.,

Plaintiffs,

v.

WELLS FARGO, N.A.

Defendant.

Civil Action No. 4:18-cv-00501-ALM

JURY TRIAL DEMANDED

WAPP TECH LIMITED PARTNERSHIP
and WAPP TECH CORP.,

Plaintiffs,

v.

BANK OF AMERICA, N.A.,

Defendant.

Civil Action No. 4:18-cv-00519-ALM

JURY TRIAL DEMANDED

DECLARATION OF PROFESSOR SAM MALEK

1. My name is Sam Malek, Ph.D. I have been retained as a technical expert for Plaintiffs Wapp Tech Limited Partnership and Wapp Tech Corp., (collectively, "Wapp" or "Plaintiffs") in case numbers 4:18-cv-00469-ALM, 4:18-cv-00501-ALM, and 4:18-cv-00519-

ALM. The statements contained in this declaration are of my own personal knowledge and, if called as a witness, I could and would testify competently and truthfully with regard to the matters set forth herein.

2. I am a Professor in the Informatics Department within the School of Information and Computer Sciences at the University of California, Irvine. I am also the Director of the Institute for Software Research and Software Engineering and Analysis Laboratory. My general research interests are in the field of software engineering, and to date my focus has spanned the areas of software architecture, autonomic computing, mobile computing including applications, security, and software analysis and testing. The underlying theme of my research has been to devise techniques and tools that aid with the construction, analysis, and maintenance of large-scale software systems.

3. I received my Ph.D. and M.S. degrees in Computer Science from the University of Southern California and my B.S. degree in Information and Computer Science from the University of California, Irvine. I have received numerous awards for my research contributions, including the National Science Foundation CAREER award (2013), GMU Emerging Researcher/Scholar/Creator award (2013), and GMU Computer Science Department Outstanding Faculty Research Award (2011). I am currently on the editorial board of the ACM Transactions on Software Engineering and Methodology, ACM Transactions on Autonomous and Adaptive Systems, and Springer Journal of Computing. I am a member of the Association for Computing Machinery (ACM), ACM Special Interest Group on Software Engineering (SIGSOFT), and the Institute of Electrical and Electronics Engineers (IEEE).

4. I have over 100 peer-reviewed research publications. I have received grants for my research from the National Science Foundation (NSF), Federal Bureau of Investigation

(FBI), Air Force Office of Scientific Research, Department of Homeland Security (DHS), National Security Agency (NSA), Defense Advanced Research Projects Agency (DARPA), Office of the Director of National Intelligence, and Army Research Office among others.

5. I understand that on or about October 24, 2020 counsel for defendants Seattle SpinCo, Inc., et al., Bank of America Corp. and Wells Fargo Bank, N.A., (collectively the “Defendants”) were served with an email disclosing me as an expert in the above captioned cases. The disclosure included a copy of my curriculum vitae and agreement to be bound to the protective order in each case.

6. I understand that on or about October 29, 2020, Mr. Sears, counsel for the Micro Focus defendants objected to the disclosure due to my prior work for Hewlett Packard in *YYZ LLC v. Hewlett Packard Company*, Case No. 1:13-cv-00136-SLR (D. Del. 2013); stating that the product in the *YYZ v. HP* case was HP’s Application Performance Management product. Other than seeing that statement in Mr. Sears’ October 29, 2020 letter, I do not recall if that was, in fact, the product at issue in that case.

7. I worked on the *YYZ v. HP* case for approximately one-week, nearly six years ago in December 2014. I have no memory of what HP product was accused of infringement in that case.

8. I did not speak with any employee of Hewlett Packard about the technology or product at issue or anything else in the *YYZ v. HP* case that I worked on in December 2014.

9. I do not recall anything about what may have been said to me by any of the lawyers about whatever HP product was at issue in that case in 2014 given the limited time that I worked on that case over approximately one week about six years ago.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct, to the best of my knowledge and belief. Executed this 2nd day of November 2020.



Sam Malek, Ph.D.